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Chapter 36. State Acquisition of Private Land

Section 6.3601. Initiation of Court Action.

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Section 6.3601. Initiation of Court Action.

At the Governor's direction, the Attorney General initiates an action to acquire an interest in private land on behalf of the State by:

(1) Filing with the Court a complaint naming the State of Kosrae as plaintiff and naming as defendants all interested parties which are all persons holding or claiming legal interest in the land or interest sought by the State. The complaint contains an explanation of the interest sought by the State, an exact description of the land affected, the public purpose for which the interest is sought, a showing that the land and the interest are highly suited to their intended use, and the State's determination of fair compensation to the defendants for the interest sought;

(2) Filing with the Court a Statement of Compliance showing the State's compliance with the requirements of Title 11, [Section 11.103](#). The Statement of Compliance contains:

(a) A summary of the State's efforts to identify and contact all interested parties and any information or belief the State has regarding unknown or uncontacted interested parties;

(b) A summary of the State's effort to acquire the interest in private land with the consent of the interested parties, including efforts to avoid substantial hardship to the interested parties in consideration of their personal circumstances; and

(c) Attachment of all documents provided to the defendants pursuant to Title 11, [Section 11.103](#) and any documents received from the defendants pursuant to that section.

(3) Lodge with the Court for deposit in a separate interest bearing account a sum equal to the amount offered by the State as fair compensation to the defendants for the interest in land sought by the State.

Background

Added by State Law 5-39.

Cross reference:

The constitutional provisions on the Judiciary are found in [Kosrae Const., Art. VI](#).

Section 6.3602. Procedure.

The [Kosrae State Court Rules of Civil Procedure](#) govern the procedure for actions brought under this chapter except:

(1) The proceedings are scheduled on an accelerated basis. Except upon motion showing extraordinary circumstances a judgment is rendered within 120 days of the action being filed.

(2) Notice of the accelerated nature of the proceedings is issued with the summons served upon each defendant.

(3) The State may join as defendants in one action all interested parties in the acquisition of an interest in land sought for a single public purpose.

(4) The costs of an action brought under this chapter, including costs incurred by the Court in the valuation of an interest in land, are paid by the State.

Background

Added by State Law 5-39.

Section 6.3603. Trial.

(1) Except upon a motion showing extraordinary circumstances, the issues at the trial of an action brought under this chapter are limited to the following:

(a) The suitability of the land and the interest sought for their intended use;

(b) The ownership of the interest sought by the State;

(c) The State's good faith in its efforts to gain the consent of the interested parties;

(d) The reasonableness of the State's efforts to avoid substantial hardship to the interested parties in consideration of their personal circumstances; and

(e) The fairness of the compensation offered to each defendant for the interest in land sought by the State.

(2) The State is entitled to a presumption in its favor on each [of] the trial issues with regard to any defendant who fails to timely respond to the State's written request made pursuant to Title 11, [Section 11.103](#).

(3) Where ownership of the interest in land to be acquired by the State is in dispute and substantial hardship is not found as to any defendant involved in the dispute, the

Court may establish the fair compensation for the interest and allow its ownership to be established in a separate interpleader action.

Background

Added by State Law 5-39.

Section 6.3604. Valuation of Land.

The Court uses any available equitable means of determining the fair value of the interest in land to be acquired by the State.